

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

February 6, 2013

Ron Siciliano called the Board of Zoning Appeals hearing to order at 6:00 p.m. at the Fairfield Municipal Building, 5350 Pleasant Ave.

Roll Call

Lynda McGuire, Secretary, called the roll of the Board of Zoning Appeals. Present members were Ron Siciliano, Jack Wesseler, Joseph Koczeniak, Chad Oberson, Scott Lepsky and Debbie Pennington. Rick Helsinger, Building Official and John Clemmons, Law Director were also present. Motion to excuse Don Carpenter carried 6-0.

Pledge of Allegiance

Minutes of the Previous Meeting

The minutes from the Board of Zoning Appeals meeting held on January 2, 2013 were approved. Motion carried 6-0.

Old Business

Motion to remove the case from the table carried 6-0.

Case No. BZA-12-0044 – Fence in front yard setback – 3362 Devonian Dr.:

Antonio Leon is requesting a variance to construct a fence in the front yard setback.

STR had no comment on this case.

Property Owner's Comments

Antonio Leon spoke regarding the variance. People cut through his yard to get to and from the neighboring park and he has had items stolen out of his garage. There was discussion and clarification on the specific area that is to be fenced. The variance is to fence down the side of the property parallel to the park and about a 30 foot section across the front of his yard. He already had a permit issued and a fence installed in the back and side of the property. Mr. Siciliano doesn't see a need for the fence across the front, but doesn't have a problem with the proposed fence down the side of the property. Ms. Pennington asked what type of fence was being installed, and if there were any restrictions on fencing in that neighborhood. Mr. Leon said he would be willing to install any type, and there are no restrictions on fencing in that neighborhood. He had planned on installing chain link fencing. There is an easement through the property, because of power lines. Mr. Wesseler asked if fencing was acceptable under power lines. Structures are not allowed, but fencing is ok, with the understanding that it is at the homeowner's risk.

Public Hearing

None

Board Re-Convened

Chad Oberson, seconded by Joe Kozceniak, made a motion to approve the variance, amended to include **only** the fencing along the side of the property, parallel to the park. Motion carried 6-0.

New Business

Case No. BZA-13-0001 – Accessory building over 500 sq ft, no paved access – 5645 Lindenwood Ln:

Kim Kupper is requesting a variance to construct a 600 square foot garage, with no paved access.

STR recommends the homeowner request a letter from the owner of the home at 5651 Lindenwood Ln., giving permission for use of the driveway that runs along his property.

Property Owner's Comment

Kim Kupper spoke regarding the variance. Currently he is using an enclosed tent, which is in the location he wants to build the garage. It has been there for 18 years. It holds his yard furniture, utility trailer and boat. He needs the extra length of the garage for his boat to fit in it. He got a violation letter to remove the tent; he didn't know he wasn't allowed to have it. He only gets his boat out twice a year, and there is not room to pave a driveway to the garage. The proposed siding and materials will match the house. Mr. Siciliano asked which way the door would face. Mr. Kupper is open either way. Mr. Kozceniak asked if anyone knew the history on the narrow driveway next to Mr. Kupper. Mr. Clemmons stated that the people that own that property are at the meeting and can explain. The larger house at the end of Crestwood had a carriage house, with its own driveway to Lindenwood Ln. The homes on Lindenwood Ln. were built after the larger house and carriage house. Mr. Kozceniak asked if there were any other options on location for the garage. If the garage were attached to the home, it would still be difficult to access. Mr. Oberson noted that if the neighbor sold their house, there could be issues with sharing the driveway. There is no easement. Mr. Kupper said he understands the issue, but is not sure what the solution is.

Public Hearing

Donna Garrett, 1590 Crestwood Ln. spoke regarding the variance. She is the neighbor who owns the home with the possible shared driveway. She is concerned that she will have difficulty selling her house if she agrees to share the driveway with the applicant. Mr. Clemmons said common driveways are common. They are recorded legal documents, so maintenance responsibilities are spelled out. Lending authorities typically don't object to shared driveways. He suggested tabling the variance to give the owners and neighbors a chance to explore this option.

Board Re-Convened

Chad Oberson, seconded by Scott Lepsky, made a motion to table the variance until the March 6, 2013 meeting. Motion carried 6-0.

Case No. BZA-13-0003 – Reduce front yard setback – 5380 Winton Rd.:

Tom Bryant, for William and Michelle Campbell, is requesting a variance to reduce the front yard setback for a new single family from 40 feet to 20 feet.

STR is concerned about the drainage on this property. They recommend a drainage plan be submitted and approved by the Development Services Department.

Property Owner's Comment

Tom Bryant spoke regarding the variance. He is requesting a variance to build a home 20 feet nearer to the property line on the right side than allowed. This will help the house have a better driveway on the property, because of the grading. The home will face the private road, not Winton Road, so it is more a side yard than a front yard. This placement will be more in harmony with the lay of the land. Mr. Wessler asked for clarification on the placement of the house. It will be setback 42 feet from the private street and 20 feet nearer to Winton Rd. Ms. Pennington asked where the driveway will be placed. It will be placed similar to the next door neighbors, in front of the where the house is facing. Mr. Bryant noted there is an existing berm where he is asking for the setback variance, and drainage will not be affected.

Ed Bowling, 5373 Winton Rd. spoke regarding the variance. He lives across the street from the development, and has for 45 years. When they get a lot of rain, the water runs across Winton and right in his front yard. It looks like a waterfall coming over the wall. He doesn't have a problem the variance they are requesting today, but he doesn't want the existing water problem worsened. He thinks a grate would solve the problem. Mr. Helsinger said he would have Ben Mann, City Engineer, look at the situation.

There was discussion on the drainage of the property. Currently, the property drains to the south.

Board Re-Convened

Scott Lepsky, seconded by Debbie Pennington, made a motion to approve the variance with the stipulation that a drainage plan be submitted and approved by the Development Services Dept. Motion carried 6-0.

Case No. BZA-13-0004 – Parking within 5 feet of the right of way – 4930 Dixie Hwy.:

Automotive Connection is requesting a variance to park cars for sale within 5 feet of the right of way line.

STR recommends that if approved, parking/wheel stops should be installed. There is to be no parking in the right of way. STR also recommends that the middle curb cut be closed (Donald Dr. curb cut closest to Dixie Hwy).

Property Owner's Comment

A representative from Automotive Connection spoke regarding the variance. He can't place all of the vehicles on the lot that he needs to sell if he can't park them in/near the right of way. The parking plan is included in the packet that was distributed to the board. He signed a long term lease that included the ability to park cars in the front of the property. Mr. Kozceniak asked if the sidewalks would be affected by this variance. Route 4 doesn't require sidewalks, and the sidewalks would be in the right of way anyway. Mr. Oberson clarified that the business is currently in violation because of where they are parking their cars, but he thought the cars looked like they were pretty far back from the street. Mr. Helsinger stated that Tim Bachman, Erin Donovan and him visited the property and marked the pavement where the right of way is. The owner stated that the parking in front will be a problem, but the suggested curb cut reduction will help add a couple parking spots. It was stressed that the cars are currently parked in the right of way. The marking on the pavement is the right of way line, and the variance is to park right up to that line. The board can't give permission to park in the right of way, only to park within 5 feet of the right of way. The State of Ohio has to give permission to park in the right of way. The owner was shown various pictures on the curb stops suggested by STR. There was discussion regarding where the right of way was marked and landmarks on the property to figure where that was. It was suggested the owner have a surveyor mark the exact location of the right of way. The owner notified the board that they would be contacting the state, but it would take time. Mr. Clemmons advised them that the enforcement people would be willing to work with them.

Board Re-Convened

Chad Oberson, seconded by Scott Lepsky, made a motion to allow parking within 5 feet of the right of way, with the stipulation that curb stops are installed at the right of way line by September 1, 2013. At no time shall the cars parked impede the line of sight. The curb cut at Donald Dr. nearest Dixie Hwy must be closed. Motion carried 6-0.

Discussion

Mr. Wessler asked about the previous variance for Rolling Hills Baptist Church. They haven't done the work that was requested by the variance. Mr. Helsinger stated that a letter was sent in from the pastor asking for a renewal, and they met with staff. The situation is moving forward.

Ms. Pennington said she had a problem with the fence on Devonian Dr. The owner seemed agreeable to installing a fence other than chain link, but she didn't feel there was enough discussion before the vote was taken. It was agreed that the board members need to make sure they speak up if they have an issue with a case.

Adjournment:

Motion to adjourn carried 6-0.

Ron Siciliano, Chairman

Lynda McGuire, Secretary